

Remarks

1. Summary of Office Action

In the office action mailed August 13, 2003, the Examiner rejected claims 1-30 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,421,544 (Sawada). Further, the Examiner rejected claims 31-37 under 35 U.S.C. § 103(a) as being obvious over a combination of Sawada and U.S. Patent No. 6,424,839 (Bruzzone).

2. Amendments and Pending Claims

Applicant has canceled claims 1-2, 10, 14-15, 22, 24, 27 and 30. Further, Applicant has amended claims 11 and 23 to be independent and to recite various limitations of the claims (2 and 15) from which they depended. In turn, Applicant has amended claims 3, 8, 9 and 12 to depend from claim 11 instead of from canceled claim 2, and Applicant has amended claims 16-18 and 20-21 to depend from claim 23 instead of from canceled claim 15.

Still further, Applicant has rewritten claims 31 and 33-37 in independent form, incorporating all of the limitations of the claims from which they depended. And Applicant has made some minor changes to the language of dependent claims 4, 12 and 13.

Now pending in this application are claims 3-9, 11-13, 16-21, 23, 25-26, 28-29 and 31-37, of which claims 11, 23, 31 and 33-37 are independent, and the remainder are dependent.

3. The Claimed Invention

Applicant's invention is directed to a method of changing the functionality of a device based on location of the device. As a general matter, the device has a set of control logic (e.g., application-layer logic), and, when the device is located in a particular location, the device receives a control signal associated with the location, which will effect a change in the control logic of the device.

In this regard, many of the pending claims specifically recite (or require by dependency) that the control signal itself embodies a set of *modified* control logic and that, in response to the control signal, the device actually changes its own control logic so as to embody the modified control logic. For instance, independent claims 11 and 23 (as well as their associated dependent claims 3-9, 12-13 and 16-21) include this limitation.

Further, the other pending claims specifically recite (or require by dependency) that, after the device receives the control signal but before changing its control logic, the invention involves prompting a user of the device to approve a change in functionality of the device. For instance, claims 25-26, 28-29 and 31-37 include this limitation.

4. Response to § 102 Rejections

As noted above, the Examiner rejected claims 1-30 under 35 U.S.C. § 102(e) as being anticipated by Sawada. Under M.P.E.P. § 2131, a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Applicant respectfully traverses the anticipation rejection of pending claims 3-9, 11-13, 16-21 and 23, because Sawada does not disclose or suggest each and every element as recited in any of these claims.

In particular, Sawada fails to disclose that the control signal itself comprises a set of modified control logic, and that, when the device receives the control signal, the device responsively changes its control logic to embody the modified control logic provided by the control signal.

At best, Sawada teaches (i) a device that includes predefined modes of operation (e.g., different states of control logic) and (ii) a method in which the device receives a "mode change signal" that directs the device to switch from one of the predefined modes of operation to another

one of the predefined modes of operation. (*See, e.g., Sawada*, at 7, lines 52-53; column 10, lines 24-34; column 14, line 7). But *Sawada* does not teach that the "mode change signal" itself includes a set of modified control logic for the device to use.

Note that this element was recited in original claims 11 and 23 as filed and is now set forth in all of claims 3-9, 11-13, 16-21 and 23. Yet, when rejecting original claims 11 and 23, the Examiner did not address this element. Rather, the Examiner seems to have grouped claims 11 and 23 together with claims 10 and 22, which involved the control signal having a key that would direct the device to change its logic. (Claims 10 and 22 have now been canceled). Thus, the Examiner has not asserted that *Sawada* discloses this limitation.

Because *Sawada* does not teach each and every element of claims 11 and 23, *Sawada* fails to anticipate claims 11 and 23 under 35 U.S.C. § 102(e). Further, because each of claims 3-9, 12-13 and 16-21 depend from one of these claims, *Sawada* necessarily also fails to anticipate claims 3-9, 12-13 and 16-21 as well.

5. Response to § 103 Rejections

The Examiner next rejected claims 31-37 under 35 U.S.C. § 103(a) as being obvious over a combination of *Sawada* and *Bruzzone*. According to M.P.E.P § 2143, in order to establish a *prima facie* case of obviousness of a claimed invention by applying a combination of references, the combination must disclose or suggest all of the claim limitations. Applicant respectfully traverses the obviousness rejection of claims 31-37, as well as claims 25-26 and 28-29, because the combination of *Sawada* and *Bruzzone* fails to disclose or suggest all of the limitations of any of these claims.

In particular, the combination of *Sawada* and *Bruzzone* fails to disclose or suggest a method in which, after the device receives a control signal associated with a given location, but

before the control logic of the device is responsively changed, *a user is prompted to approve change in function of the device*. Each of claims 25-26, 28-29 and 31-37 requires this element. Further, most of these claims also require receiving a user response that indicates whether or not the user approves (also before changing the control logic).

In rejecting claims 31-37, the Examiner asserted that the combination of Sawada and Bruzzone teaches this element. Applicant respectfully disagrees.

At best, the combination of Sawada and Bruzzone teaches a device displaying a notice to a user to indicate a current mode of the device. For instance, as the Examiner noted, Sawada teaches displaying warning message to tell the user that a mode change is in effect. Bruzzone then similarly teaches displaying a warning message to tell the user whether the device can currently be used (e.g., if it is in a good coverage area).

However, Applicant has not found in the combination any disclosure of (i) a device receiving a control signal associated with a given location, (ii) then prompting a user to approve a change in function of the device (and receiving a user response indicating whether the user approves), and (iii) then responsively changing control logic of the device.

In rejecting the claims, the Examiner stated that "Bruzzone teaches the device prompting a user of the device for approval of changing the control logic and the device receiving a user response indicating whether or not the user approves," and the Examiner cited the abstract and column 3, lines 1-10 of Bruzzone in support. But as far as Applicant can tell, these portions of Bruzzone state merely that the device includes an indicator for indicating whether or not the device can be used. The indicator happens to appear in the form "(U: Y/N)", which the Examiner seems to have construed as a user-prompt of some sort. However, Bruzzone does not teach that the indicator is a user prompt. Bruzzone teaches only that the indicator indicates.

(Applicant's best guess is that the indicator would read either "(U: Y)" or "(U: N)", depending on whether or not the device could be used at the moment.)

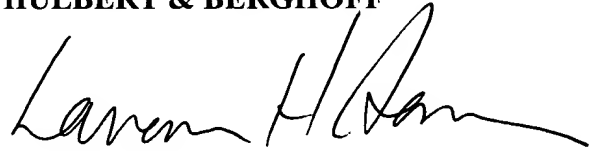
Because the combination of Sawada and Bruzzone fails to disclose or suggest all of the limitations of any of claims 25-26, 28-29 and 31-37, a *prima facie* case of obviousness of these claims does not exist.

6. Conclusion

For the foregoing reasons, Applicant submits that claims 3-9, 11-13, 16-21, 23, 25-26, 28-29 and 31-37 are in condition for allowance. Therefore, Applicant respectfully requests favorable reconsideration and allowance of all of the claims.

Respectfully submitted,

**MCDONNELL BOEHNEN
HULBERT & BERGHOFF**



By: _____

Lawrence H. Aaronson
Reg. No. 35,818

Date: October 22, 2003